



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

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January 2, 1976

The Honorable Bob Bullock
Comptroller of Public Accounts
L.B.J. State Office Building
Austin, Texas 78711

Opinion No. H-757

Re: Whether salary supplements made with gift funds must be reported to the Secretary of State under section 1(q) of article V of the General Appropriations Act.

Dear Mr. Bullock:

You have asked whether gifts of money to state agencies, used to supplement salaries of employees whose salary is paid in part from funds appropriated in articles I-IV of the General Appropriations Act, Acts 1975, 64th Leg., ch. 743, p. 2417, are required to be reported under section 1(q) of article V of the Act.

This section provides:

q. SALARY REPORTING. None of the funds appropriated to departments and agencies covered in Articles I through IV of this Act shall be expended for payment of salary to any person whose salary is being supplemented from other than appropriated funds until a report showing the amount and source of salary being paid from other sources has been reported to the Secretary of State. (Emphasis added.) Acts 1975, 64th Leg., ch. 743, at 2844.

Section 18 of article V of the General Appropriations Act provides:

Sec. 18. ACCEPTANCE OF GIFTS OF MONEY. All bequests and gifts of money to State agencies named in this Act are hereby appropriated to the agency designated by the grantor and for such purposes as the grantor may specify;

provided, however, that all such bequests and gifts of moneys, except those to the Department of Mental Health and Mental Retardation and institutions under its jurisdiction received from private sources, and to agencies and institutions named in Article IV of this Act, shall be deposited into the State Treasury and shall be expended in accordance with the provisions of this Act. Acts 1975, 64th Leg., ch. 743, at 2858.

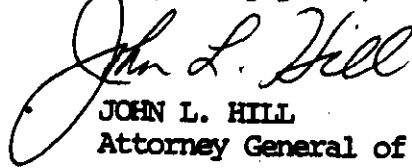
It has been suggested that salary supplements made with gift funds are not covered by section 1(q) since those funds are appropriated by section 18 of article V of the Act and thus are not "other than appropriated funds."

In determining the requirements of a statute the intent of the Legislature must be the paramount consideration. See e.g., Jessen Associates v. Bullock, No. B-5577 (Tex. Sup. December 17, 1975); Flowers v. Dempsey-Tegeler & Co., 472 S.W.2d 112 (Tex. Sup. 1971). Where a law has been uniformly construed by those charged with its administration and has been reenacted by the Legislature without change it is presumed that the Legislature was aware of and adopted that construction. Humble Oil & Refining Co. v. Calvert, 414 S.W.2d 172 (Tex. Sup. 1967); Stanford v. Butler, 181 S.W.2d 269 (Tex. Sup. 1944); Railroad Commission v. Texas & New Orleans R. Co., 42 S.W.2d 1091 (Tex. Civ. App. -- Austin 1931, writ ref'd). Provisions identical to article V, sections 1(q) and 18 of the current Appropriations Act are also found in the 1973 General Appropriations Act, Acts 1973, 63rd Leg., ch. 659, p. 1786 [section 1(q) at 2195; section 18 at 2208]. A search of the salary supplement files in the Office of the Secretary of State reveals that state agencies have construed this language to require reporting of gift funds. Indeed, to construe the provision as not applying to gift funds would give section 1(q) little, if any, meaning. Since the Legislature is presumed to have used every word and section for a purpose, we cannot adopt a construction that would make this section meaningless. Perkins v. State, 367 S.W.2d 140 (Tex. Sup. 1963); Eddins-Walcher Butane Co. v. Calvert, 298 S.W.2d 93 (Tex. Sup. 1957). Accordingly it is our view that the Legislature used the term "appropriated" in different contexts in sections 1(q) and 18, and clearly intended that salary supplements paid from gift funds be reported to the Secretary of State.


S U M M A R Y


Funds may not be expended to pay the salaries of state employees and officers until the source of any salary supplement, including supplements made with gift funds, is reported to the Secretary of State.

Very truly yours,


JOHN L. HILL
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APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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